

APPROVED MINUTES
Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, New York 10924
March 6, 2008

MEMBERS PRESENT

Reynell Andrews
Lee Bergus
Susan Cleaver
Mary Israelski
John Lupinski

ALSO PRESENT

Neal Halloran, Building Inspector
Sean Hoffman, Engineer
Rick Golden, Attorney
Kelly Naughton, Attorney

ABSENT:

Ralph Huddleston
Ray Myruski

CALL TO ORDER

Acting Chair Mary Israelski called the regular meeting of the Town of Goshen Planning Board to order at 7:30 p.m. at Town Hall.

MINUTES

The minutes of the February 21, 2008 meeting were approved with corrections upon motion made by Mr. Bergus and seconded by Ms. Cleaver. Motion passed.

AGENDA ITEMS

Dickerson – 13-1-69 – 92.90 acres, 21 lot subdivision located on Dunmore Lane, Gibson Rd and Route 17A in the RU zone with an AQ3, AQ6 and scenic road corridor overlay. Possible preliminary approval.

Present for the applicant:

Amador Laput, Jr.

Mr. Laput said he was present to ask for preliminary approval. He said the applicant has satisfied the technical comments of the consultants and the plans in front of the PB have only one change from the workshop - the construction entrance note, Note #2, was clarified to show that trucks may not enter or exit the property without first passing over the construction entrance.

Town consultant Sean Hoffman said the full set of drawings have been reviewed and that the main revision is that the sewage disposal septic systems were revised from serving three bedrooms to four bedrooms. He said the notes need to be revised to match the plan. Mr. Hoffman pointed out that the applicant has revised the road names and that they will require Town Board approval. It was stated that the through road is proposed to be named Black Horse Lane and the road next to the culdesac, Silhouette Lane.

Ms. Naughton noted that the dates on the revised plans need to be updated on each page and that Page 9 should show Lot #23.

Ms. Naughton read the proposed conditions for the approval. They included:

1. The applicant must comply with all requirements of the Town Code including Section 97-29(G) through (J) except where site features are screened from the road.
2. All wetland delineations and concomitant impacts to the application are subject to all regulating authority that exists at the time of the consideration of final approval of its application, including but not limited to the jurisdiction of the NYS DEC. To the extent that any such new delineation or regulation impacts the proposed plan as approved herein, the applicant must conform its application accordingly prior to final approval.
3. The applicant will provide a 100 foot buffer along the northwestern property line upon which it will place a restrictive covenant providing that the area shall remain undisturbed with the exception of tile fields on lots 15 and 16, and any detention ponds shown on the plans last revised Feb. 1, 2008 as currently within that 100 foot buffer.
4. Wetland and any required buffers are to be marked on individual lots prior to final approval. The applicant must use proper Environmentally Sensitive Area ("ESA") signage where applicable, and have such signage in place prior to any site disturbance.
5. Prior to final approval, the applicant shall approach the Town Board to see if it would like a bicycle path on the property. If the Town Board is in favor of such a bicycle path, the applicant will increase the road width to 28 feet so that a bicycle path may be constructed along the road.
6. Prior to receiving approval from the Department of Health, the applicant must present a letter from the DEC granting its permission for the applicant to build within the buffer area.
7. Prior to final approval, the applicant must demonstrate to the PB by means of a letter, that the wetlands are under the Army Corps of Engineers' jurisdiction.
8. The applicant shall plant shade trees along both sides of existing and new roads within the subdivision and must be bonded to be guaranteed to survive at least one

growing season. The shade trees shall be located at no more than 40 foot intervals along the front property line. All tree varieties, condition and quality are subject to the approval of the PB. The placement of trees in relation to road pavement, sidewalks and utilities shall be approved by the Town Engineer and Highway Superintendent prior to final approval.

9. Prior to final approval, the applicant must present to and receive approval for, the proposed street names within the subdivision.

Ms. Israelski told the applicant to include a pedestrian or bike access on the through road (Black Horse Lane), citing Section 83-13 (K) of the Town Code. Ms. Naughton said the Code states that the PB “shall generally include a continuous network of public pedestrian access as appropriate to the location” so if the PB decides it is appropriate to the location, then it will be added as a condition, she said. Mr. Israelski polled the PB. All favored adding an additional condition to the approval.

Mr. Hoffman added that the Town’s consultant is asking the applicant to mark in the field where the limits of disturbance are. This would avoid accidentally cutting down trees, etc., he said. He said it should be added as a condition.

Ms. Israelski asked the applicant to provide a simple entrance design plan that would be subject to the PB’s approval. The applicant agreed.

As the result of discussion, six additional conditions were suggested and agreed upon by the PB and its consultants. The additional conditions were read by Ms. Naughton and are to be added to the prior conditions:

10. Applicant will, prior to final approval, present an entrance design subject to PB approval.
11. Applicant shall add a bicycle path on the through road, Black Horse Lane.(Replaces Item #5 above)
12. Applicant shall mark in the field where the limits of disturbance are.
13. Applicant shall update the dates on the plan and add Lot # 23 to reflect the latest changes.
14. Applicant shall revise the plans to match the note for the septic design.
15. Applicant shall confirm that all road names are consistent throughout the plan.

It was noted that the County Planning Department had agreed that this application was for “local determination”.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board hereby declares a negative declaration on the application of Dickerson for purposes of SEQRA. Approved unanimously.

Mr. Andrews	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Ms. Israelski	Aye
Ms. Cleaver	Aye		

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Lupinski, the Town of Goshen Planning Board hereby grants preliminary subdivision approval on the application of Dickerson, conditioned upon the conditions set forth at the PB meeting of March 6, 2008 and payment of all fees. Approved unanimously.

Mr. Andrews	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Ms. Israelski	Aye
Ms. Cleaver	Aye		

Douglas Jones, Esq. approached the PB and asked if he could discuss the Dickerson’s two-lot subdivision and the conservation easement. He said he was under the false impression that the two-lot subdivision had been approved and finalized. He said it was conditionally approved on Dec. 1, 2005 but learned recently that it was never finalized. Mr. Jones said there were plans submitted in May of 2006 but since the conservation easement had not been concluded the plans could not be filed and approved by the Town. He said that was the time period when Jacobowitz and Gubits left as the Town Attorney and Dennis Caplicki was appointed Town Attorney. He said he discussed this with Mr. Caplicki but it wasn’t until October of 2007 that he got an e-mail from Mr. Caplicki approving the language submitted for the conservation easement. On Nov. 1, 2007 the PB revoked the conditional approval for the two-lot subdivision and added it back into the larger project. “It wasn’t clear to us that the two-lot subdivision was revoked so we just found out about it this week when we removed the oil tank from the property and the Building Inspector mentioned to the property owner that they should talk to Mr. Golden,” he said. “We want to renew our application for the minor subdivision to carve out the nine acres with the house and then complete the language for the conservation easement so we can sell the house,” he said. There is currently a buyer for the house.

Ms. Naughton said that “unfortunately, this Planning Board cannot do that.” She said the PB approved the two-lot subdivision in December of 2005 but that it was subject to various conditions including the conservation easement. “New plans had been sent in May 2006, but we don’t know if those conditions were satisfied or not and we haven’t had the engineers look at them to see, but irregardless, we have no record that the applicant ever requested an extension and even if they did they’re only permitted two 90-day extensions, past the 180 days so their application had expired. And as that happened, we included it as part of this application. It is part of this application, to have it separated out as part of a separate application would not be appropriate,” she said.

Mr. Jones said that the delay has been with the Town, not the applicant. When they brought the plans to the Town to be filed in May, 2006, they were told they couldn't be filed until the conservation easement was approved by the Town. He said he doesn't know exactly when he got the conservation easement information to Town Attorney Dennis Caplicki but he knows he didn't get the language from him until October of 2007.

Mr. Naughton said that the fact remains that it had expired and the PB doesn't have the authority to continue granting extensions. "We don't know who dropped the ball at this point," she said and added that the approval expired 180 days after December 1, 2005, so roughly around June 1, 2006, and the applicant did not ask for extensions. She said the two lots are part of the Dickerson application that is going forward and added that the PB has not permitted this on other applications and noted that Heritage had come back to the PB to request a portion be broken off to expedite the process and it was deemed inappropriate and not PB policy.

Mr. Halloran said that originally the applicant came to the PB with a full subdivision, they then dropped the full subdivision and asked for it to be considered as a two-lot application. Ms. Naughton said that theoretically the applicant can do the same thing and drop this full application and go with those two lots. It would be up to the applicant, she said.

Realtor Dave Hawkins asked for consideration, saying there is a serious buyer for the unoccupied house on the nine acres. Ms. Naughton said that it is part of this application now and "the PB doesn't have the option to grant the leniency that the applicant is requesting."

Ms. Israelski told Mr. Golden, who had just come in from another Town meeting, that the PB tends to be sympathetic to the applicant who is left with the inability to sell their family home on the nine acres. She asked if there wasn't a provision in the Code that would allow the PB to do it? Mr. Golden said he hasn't found anything that allows the PB to waive the requirement once it has lapsed. "I don't see anything in your Code that would permit you to waive that provision. I understand that it is unfair in this situation," he said. Mr. Golden said that if Mr. Jones comes up with something, he will look at it. Mr. Jones said he would look through the Code.

Mr. Andrews asked what the applicant has to do next. Mr. Golden said, "If it was just the two-lot subdivision and it lapsed, and the applicant wanted to start over again, they would have to pay fees and start over again. The Town of Goshen is not unique in this area, every code I know of has the same provision. You have this lapsing period, if it lapses, you have to start over and go through all of the procedures. That is assuming there is not this other application that superseded it and now incorporates that project."

Mr. Bergus asked if the applicant could consolidate a couple lots and then bring it back later on to subdivide one lot. Ms. Cleaver asked if the applicant could withdraw the 21 lot subdivision and come back with a two-lot subdivision and asked if the Town Board might waive the fees. Mr. Golden said he would have to check the wording of the moratorium, but that it might be a possibility. He said he has seen occasions where municipalities have waived fees in situations where they thought the lapsing was due to their own error, but said, "You don't know whose error yet, until you have the dates of when things were sent."

Ms. Israelski suggested that Mr. Jones research it further to determine when the original easement was sent to the Town attorney and get together with Mr. Golden or Mr. Caplicki. "You can see that the PB is sympathetic but our hands are tied," she said.

Mr. Golden said that the Town Code reads that a conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval, unless the requirements have been certified by the Chairman of the PB as having been completed within that time. So the idea is, Mr. Golden said, that the requirements need not only have been completed, but also certified by the PB, and if the applicant doesn't have it by that time, then they ask for these two 90 day additions. Mr. Golden said he believes the 180 days start from the resolution granting approval, but added that it is up to the Building Inspector to interpret that.

The PB asked that the matter be put on its March 20th agenda.

North Jersey Trailer & Truck – 12-2-20.1, 16.1 & 12.1 – 165 +/- acres, 15,000 sq. ft truck trailer service building located on Calvary Court & Cannon Hill Drive, in the I zone with an AQ3 overlay. Lot Line Plan – conceptual presentation.

Present for the applicant: Travis Ewald

Mr. Halloran said that the concept and layout to be shown by Mr. Ewald is entirely new and that the applicant wants to know what the PB thinks of it.

Mr. Ewald said that the last time the applicant appeared before the PB, the PB was concerned that this section of Cannon Hill Dr. had never been dedicated to the Town. With the intent to encourage the owner of the self-storage area to dedicate the road to the Town, Mr. Ewald said the applicant came up with a lot line modification plan. He proposes to combine lots and extend Cannon Hill Drive straight out, rather than looping it. There will still be a connection to the property in the rear. "We think the lots will be more build able and less roadway for the Town to maintain," he said. Mr. Ewald said the drainage will be handled on Lot 4, where the applicant will handle the storm water for

the additional section of roadway being constructed. On the individual lots, whatever is built on them, they will have to handle their own storm water, he said.

Mr. Hoffman said that he thinks it provides for much more functional use of the property and will improve the traffic flow. The position of the T- turnaround is better, he said. The only hesitancy is the storm water. It would be more efficient to have one larger pond as opposed to several smaller ones, and if it is possible, the engineer would prefer it, he added.

Mr. Ewald said the applicant will look at combining the storm water for the two lots that will be under the ownership of New Jersey Truck & Trailer (Lots 4 & 5). He said Lot 5 will be the functioning lot and Lot 4 will have the pond and the applicant wants to leave that lot available for future development, but has nothing to propose at this time. He said Lots 1-3 will be owned by Moving Forward (the self-storage owner). Mr. Ewald said there is an existing easement on Lot #3 that will be maintained, if it is needed for the discharge of stormwater.

Mr. Ewald said it is a joint application for the lot line change. Mr. Halloran said the other owner has signed the owner's endorsement of the site inspection. He said that the plan appears to work better and that he has talked to the neighbor who feels it is a better layout and that the access is much better for her.

Ms. Cleaver said that the owner was supposed to put trees in but hasn't. She still wants to see the trees planted, perhaps along 17M, because it was a part of the agreement. She said this has nothing to do with the applicant.

MISCELLANEOUS ITEMS

Mr. Halloran told the PB that a Notice of Intent to be lead agency was received from the Village of Goshen for property which is in the Village, off Police Drive and in the Town. There are 20.4 acres in the Village and 4.8 acres in the Town. The proposal is for office warehouse space. He said the Town will have an application in front of it because some of the proposed parking is in the Town, the access is in the Town and the railroad bed is in the Town. The Town will be an involved agency, he said.

After discussion, Ms. Israelski asked Mr. Halloran to communicate to the Village that the PB has no objection to the Village being lead agency, but that its concerns are the zoning and connectivity to the next parcel.

On another matter, Mr. Hoffman said that there has been an applicant request to release a performance bond for 36 street trees as part of the Tobias/Rolling Knoll subdivision. He

said the applicant planted 36 trees on Old Minisink Trail, but nothing on Phillipsburg Rd., and is seeking relief from that requirement. The applicant asserts that it wasn't noted on the site plan, in the resolution or the bond that he had to put trees there. Mr. Halloran said that doesn't absolve an applicant from having to follow the Code. Ms. Naughton said it is stated in the Code and Mr. Halloran said the only time it has been waived is when there are existing trees.

The PB decided not to waive the Code provision for street trees. It wants the applicant to either install trees at 40 ft. intervals or put a portion of the bond toward the 36 trees.

ADJOURNMENT: Upon motion made by Mr. Andrews, seconded by Ms. Cleaver, the Planning Board of the Town of Goshen adjourned at 9:10 p.m.

Mary Israelski, Acting Chair
Notes prepared by Susan Varden